

### **REMARKS**

The applicant respectfully requests reconsideration in view of the above-amendments and following remarks. Support for amended claim 9 can be found in the original claim 1. Support for newly added claim 19 can be found in the original claim 1.

Claim 10 is objected to. Claims 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al., U.S. 5,734,028 ("Himeno '028") in view of Izutsu et al., JP04-164969, 1992, Abstract ("Izutsu"), and further in view of Himeno U.S. 5,332,404 ("Himeno '404"). Claims 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, as applied to claims 9, 11 and 13 and further in view of JP06-345989 A, machine translation ("Tsumura"). Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, and Tsumura and further in view of US 5,608,042 ("Himeno '042"). Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu et al., Himeno '404, Tsumura et al., Himeno '042, and further in view of US 5,824,118 ("Akai"). The applicant respectfully traverses these rejections.

#### **Objection to Claim 10**

As to the formal objection of Claim 10, the applicant respectfully believes that the Examiner is wrong. There is no comma required and the definition of  $R^4$  is correct. For the above reasons, this objection should be withdrawn.

#### **Rejected under 35 U.S.C. 103(a)**

Claims 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028 in view of Izutsu, and further in view of Himeno '404. Claims 10, 12 and 14 are

rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, as applied to claims 9, 11 and 13 and further in view of Tsumura. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, and Tsumura and further in view of Himeno'042. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu et al., Himeno '404, Tsumura, Himeno '042, and further in view of Akai. In all the rejections, Himeno '028 Izutsu and Himeno '404 are applied against the claims in all the above rejections. Izutsu is cited page 2, lines 8-12 of the applicant's specification.

As regards the § 103(a) rejections the applicant has performed comparisons and compared known dyestuffs which correspond to formulae (1), (2) and (3) (see dyestuffs a, b and c) and the known dyestuff mixture according to Example 75 of the Himeno '404 reference (see dyestuff mixture A) with inventive dyestuff mixtures B to E. B to E comprise identical dyestuffs but in different ratios which correspond to the ratios given in claim 9. The weight ratio of dyes b and c in inventive mixture C is the same as in prior art mixture A (30:10 is the same as 75:25). The ratios the applicant tested were 60:10:30 (a:b:c); 60:30:10 (a:b:c); 30:60:10 (a:b:c); and 10:60:30 (a:b:c). The applicant was able to show that the inventive dyes performed unexpected better with respect to build-up (see the enclosed Declaration of Adrian Murgatroyd). For the above reasons, this rejection should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

A three month extension has been paid. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05579-00350-US from which the undersigned is authorized to draw.

Dated: June 15, 2009

Respectfully submitted,

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Enclosure: Declaration